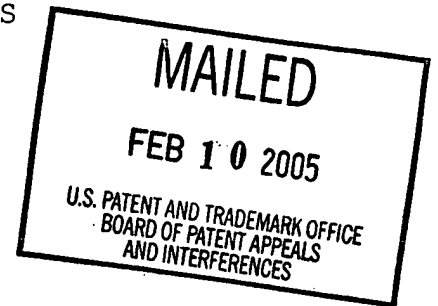


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DEBORAH ANN LEWIS,
VICTOR MARCUS LEWIS
and DAVID ADRIAN LEWIS

Application 09/155,740



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on December 21, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

An Information Disclosure Statement (IDS) was filed on November 1, 2002. It is not apparent from the record that the examiner has considered the statement submitted nor notified

Application 09/155,740

applicants of why the submission did not meet the criteria set forth in 37 CFR § 1.197 and § 1.98.

On August 5, 2004, an examiner's answer was mailed. There is no proper indication that an appeal conference was held. The Manual of Patent Examining Procedures (MPEP) § 1208 states:

The participants of the appeal conference should include (1) the examiner charged with preparation of the examiner's answer, (2) a supervisory patent examiner (SPE), and (3) another examiner, known as a conferee, having sufficient experience to be of assistance in the consideration of the merits of the issues on appeal.

...

On the examiner's answer, below the primary examiner's signature, the word "Conferees:" should be included, followed by the typed or printed names of the other two appeal conference participants. These two appeal conference participants must place their initials next to their names. This will make the record clear that an appeal conference has been held.

Upon receipt of the appeal case by the Board of Patent Appeals and Interferences (Board), the Board should review the application prior to assigning an appeal number to determine whether an appeal conference has been held.

Application 09/155,740

Accordingly, it is

ORDERED that the application be returned to the examiner for: 1) consideration of the IDS; 2) for proper indication that the appeal conference was held; and 3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

Craig R. Feinberg
Program and Resource Administrator
(571) 272-9797

cc:

Darby and Darby
805 Third Avenue
27th Floor
New York, NY 10022

CRF/cam
RA-05-0193